

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE BED BATH & BEYOND INC.
SECTION 16(b) LITIGATION

No. 22-cv-9327 (DEH)

**DECLARATION OF JAMES A. HUNTER IN SUPPORT OF THE
MOTION OF NOMINAL DEFENDANT BED BATH & BEYOND INC.
(n/k/a 20230930-DK-BUTTERFLY-1, INC.) FOR SUBSTITUTION AS PLAINTIFF AND
TO STAY CONSIDERATION OF THE AMENDED OMNIBUS MOTION TO DISMISS**

JAMES A. HUNTER hereby declares under 28 U.S.C. § 1746 as follows:

1. I am one of the attorneys representing Nominal Defendant Bed Bath & Beyond Inc., n/k/a 20230930-DK-Butterfly-1, Inc. in this case. I submit this declaration in support of the Motion of Nominal Defendant Bed Bath & Beyond Inc., n/k/a 20230930-DK-Butterfly-1, Inc. for Substitution as Plaintiff and to Stay Consideration of the Amended Omnibus Motion to Dismiss.

2. Attached as Exhibit A hereto is a true and correct copy of the September 14, 2023 order of the U.S. Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”) confirming the Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and Its Debtor Affiliates.

3. Attached as Exhibit B hereto is a true and correct copy of the Cooperation Agreement dated as of March 24, 2022 by and among Bed Bath & Beyond Inc. and the Cohen Defendants in the form in which the same was filed with the SEC on March 25, 2022.

4. Attached as Exhibit C hereto is a true and correct copy of the Schedules of Assets and Liabilities of Bed Bath & Beyond Inc. filed with the Bankruptcy Court on May 30, 2023.

5. Attached as Exhibit D hereto is a true and correct copy of the Adversary Complaint docketed with the Bankruptcy Court on April 28, 2023 in *Cohen v. Cohen (In re Bed Bath & Beyond Inc.)*, Adversary Case No. 23-1115.

6. Attached as Exhibit E hereto is a true and correct copy of the Notice of Voluntary Dismissal Pursuant to Fed. R. Bankr. P. 7041 filed in the Bankruptcy Court on May 3, 2023 in *Cohen v. Cohen (In re Bed Bath & Beyond Inc.)*, Adversary Case No. 23-1115.

7. Attached as Exhibit F hereto is a true and correct copy of the Notice of Occurrence of Effective Date Etc. filed with the Bankruptcy Court on September 29, 2023.

8. I ran searches for “Augenbaum”, “Cohen”, “Abraham”, “Fruchter”, “Twersky”, “Squitieri”, “Gardy”, and “Notis” through both the Bankruptcy Court’s docket and the claims registry maintained for Bed Bath & Beyond Inc.’s bankruptcy by Kroll Restructuring Administration LLC and available at <https://restructuring.ra.kroll.com/bbby/>. The searches were run most recently on December 6, 2023. Other than Plaintiff Cohen’s adversary complaint, which was entered on the Bankruptcy Court’s docket and listed in the Schedules of Assets and Liabilities of Bed Bath & Beyond Inc., no results were returned.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 6, 2023 in Villanova, Pennsylvania.

/s/ James A. Hunter
James A. Hunter